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10/687,366	10/15/2003	Anne Marie Razza	ORB-7	9270
26689 7590 12/23/2008 WILDMAN HARROLD ALLEN & DIXON LLP 225 WEST WACKER DRIVE, SUITE 2800 CHICAGO, IL 60606				
EXAMINER JOSEPH, TONYA S				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,366

Applicant(s)

RAZZA ET AL.

Examiner

TONYA JOSEPH

Art Unit

3628

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 21-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 29, 30, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

Claims 1-20, 29-30 and 32-33 were previously examined. No claims have been added. No claims have been cancelled. Claims 1, 13 and 29-30 have been amended. Thus claims 1-20, 29-30 and 32-33 are presented for examination.

Response to Arguments

35 USC §101

Applicant's arguments filed 10/14/2008 have been fully considered but they are not persuasive.

Although Applicant has amended the preamble of the claim to recite, "a computer implemented" method, this amendment is merely a nominal recitation of a computer. it is still unclear which parts of the method are performed by the apparatus. The Examiner suggests amending the body of the claims to specify the apparatus performing the method.

35 USC §103

Applicant argues with respect to claim 30:

Daughtrey does not teach receiving travel date information from the user, the travel date information comprising a trip date range, the trip date range comprising a user specified earliest departure date and a user specified latest return date, and a trip length. Rather, Daughtrey only allows a user to specify an earliest departure date and a length of stay. Daughtrey does not allow a user to specify a latest return date (see Fig. 2 of Daughtrey).

The Examiner attempts to satisfy this missing claim limitation by "deriving" the latest return date by adding the length of stay to the departure date. The fact that the Examiner utilizes the word "deriving" further illustrates that the user does not actually specify the latest return date. Accordingly, independent claim 30 defines over Daughtrey and is allowable. Claims 32 and 33 depend from independent claim 30 and are allowable over Daughtrey for the same reasons.

The Examiner disagrees. The system of Daughtrey plainly permits a user to specify an a trip date range, which comprises an earliest departure date, a latest return date and a trip length. When a user of the system of Daughtrey accesses the system they are able to choose a date and an approximate length of stay. If a user enters a specific date and then selects a corresponding trip length interval, the system returns results within a date range. The date range is based on the user specified earliest departure date and the amount of days corresponding to the length of stay. This allows the system of Daughtrey to provide a range of available flight dates corresponding to the user specified parameters. Daughtrey specifically teaches, "Each solution comprises a combination of flights satisfying the user's requested parameters (airports, passengers, preferred airline, etc.), within the requested date range and the length of stay" (see para. 34-35). Rather than amend the claims to further define Applicant's invention, Applicant chooses to use the Examiner's choice of the term "deriving" as an argument. This does not remedy the fact that Daughtrey plainly teaches the limitation as

described. Accordingly, Applicant's arguments are not persuasive and the rejection is maintained.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-20, 30 and 32-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
3. Claims 1-20, 30 and 32-33 are directed to a "method" and therefore are considered process claims for the purposes of § 101. To qualify as statutory subject matter, a claimed process should either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus the accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 1-20, 30 and 32-33 identify neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3628

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 9-16, 19-20, 29-30 and 32-33 rejected under 35 U.S.C. 103(a) as

being unpatentable over Daughtrey et al. US Pre Grant Publication No. 2004/0078252

A1 in view of Kwoh et al U.S. Pre-Grant Publication No. 2001/0034625 A1.

6. As per Claims 1 and 29, Daughtrey teaches simultaneously providing a plurality of flexible date search options to a user (see Fig. 2 and para. 31); one of the plurality of flexible date search options comprising performing a search based on a user departure date, a return date, and a user entered flexible time interval corresponding to at least one of the departure date and the return date (see Fig. 2);

receiving a search option selection from the user (see Fig. 2 and para. 32 lines 11-13);

requesting travel date information from the user based on the search option selection;

receiving the travel date information from the user (see para. 37);

determining all pairs of departure dates and return dates that satisfy the flexible travel

requirements travel date information (see para. 34 lines 3-5; Fig. 2 and para. 35 lines 1-

3); and identifying and displaying fares for itineraries corresponding to each of the

departure date and return date pairs (see para. 46; para. 45 lines 1-5 and Figs. 4 & 5)

and search means for identifying itineraries corresponding to said date pairs (see para. 35 lines 1-10).

While Daugherty teaches a user departure date, Daugherty does not explicitly teach a user entered return date. Kwoh teaches a user entering a return date for the purposes of searching for a flight (see para. 48). One of ordinary skill in the art at the time of

invention would have found it obvious and recognized that a user entering a return date would have yielded predictable results. i.e. providing search parameters for a travel search as described in Daughtrey para. 25.

7. As per Claim 2, Daughtrey in view of Kwoh teaches the method of claim 1 as described above. Daughtrey further teaches wherein the itineraries are air travel itineraries (see para. 22 lines 3-6).

8. As per Claim 3, Daughtrey in view of Kwoh teaches the method of claim 1 as described above. Daughtrey further teaches wherein travel date information comprises a date interval during which a weekend trip is desired (see para. 33 lines 1-7).

9. As per Claim 4, Daughtrey in view of Kwoh teaches the method of claim 3 as described above. Daughtrey further teaches wherein a weekend trip is defined as a Thursday, Friday or Saturday departure and a Sunday, Monday or Tuesday return (see para. 33 lines 2-5, Examiner interpreting a Friday or Saturday departure with a stay of 1 or 2 nights as having a Sunday, Monday or Tuesday return).

10. As per Claim 5, Daughtrey in view of Kwoh teaches the method of claim 4 as described above. Daughtrey further teaches wherein the step of determining all pairs of departure dates and return dates comprises identifying all weekends that occur during the date interval, and pairing each possible departure date associated with each possible return date for the corresponding weekend for each weekend that occurs within the date interval (see para. 37 lines 1-4; para. 46 and Fig. 4).

11. As per Claim 6, Daughtrey in view of Kwoh teaches the method of claim 5 as described above. Daughtrey further teaches wherein the date interval comprises a calendar month (see Fig. 4 and para. 33 lines 10-18).

12. As per Claim 9, Daughtrey in view of Kwoh teaches the method of claim 1 as described above. Daughtrey further teaches wherein travel date information comprises receiving a trip date interval and a trip length (see para. 25 lines 1-5; para. 31 lines 5-15 and Fig. 2).

13. As per Claim 10, Daughtrey in view of Kwoh teaches the method of claim 9 as described above. Daughtrey further teaches wherein said trip date interval comprises an earliest departure date and a latest return date (see para. 25 lines 1-5).

14. As per Claim 11, Daughtrey in view of Kwoh teaches the method of claim 9 as described above. Daughtrey further teaches wherein said trip length is expressed as a numerical value or a numerical range setting forth the desired length of the trip in days (see para. 33 lines 2-5 and 12-18 and Fig. 2).

15. As per Claim 12, Daughtrey teaches the method of claim 9 as described above. Daughtrey further teaches determining all possible departure dates and all possible return dates within the trip date interval that encompasses a trip of the received trip length and pairing each possible departure date with each possible return date (see para. 35 lines 1-16 and para. 36).

16. As per Claim 13, Daughtrey teaches simultaneously providing a plurality of flexible date search options to a user (see Fig. 2 and para. 31); one of the plurality of flexible date search options comprising performing a search based on a user entered

departure date, a return date, and a user entered flexible time interval corresponding to at least one of the departure date and the return date (see Fig. 2); receiving a search option selection from the user (see Fig. 2 and para. 32 lines 11-13); requesting travel date information from the user based on the search option selection; receiving the travel date information from the user (see para. 37); identifying one or more departure dates and one or more return dates based on the travel date information (see para. 37-38), where at least one of said one or more departure date and said one or more return dates comprises more than one date (see para. 25; para. 30 and Fig. 2); identifying a plurality of date pairs each date pair comprising one of said one or more departure dates and one of said one or more return dates (see para. 34 lines 3-5; Fig. 2 and para. 35 lines 1-3); searching for fares for itineraries corresponding to each date pair; and displaying said fares (see para. 35 lines 3-10; para. 46; para. 47 lines 1-5 and Figs. 4 & 5).

While Daugherty teaches a user departure date, Daugherty does not explicitly teach a user entered return date. Kwoh teaches a user entering a return date for the purposes of searching for a flight (see para. 48). One of ordinary skill in the art at the time of invention would have found it obvious and recognized that a user entering a return date would have yielded predictable results. i.e. providing search parameters for a travel search as described in Daughtrey para. 25.

17. As per Claim 14, Daughtrey in view of Kwoh teaches the method of claim 13 as described above. Daughtrey further teaches wherein the step of identifying one or more departure dates and one or more return dates further comprises identifying every

weekend within a defined date range, and identifying at least one departure date and at least one return date for each weekend (see para. 35 lines 7-10; para. 37 lines 1-6; para. 46 and Figs. 4 & 5).

18. As per Claim 15, Daughtrey in view of Kwoh teaches the method of claim 14 as described above. Daughtrey further teaches identifying at least one departure date corresponding to at least one of Thursday, Friday and Saturday of each weekend within said defined date range and identifying at least one return date corresponding to at least one of Sunday, Monday and Tuesday for each weekend within said defined date range (see para. 33 lines 2-5, Examiner is interpreting a Friday or Saturday departure with a stay of 1 or 2 nights as having a Sunday, Monday or Tuesday return).

19. As per Claim 16, Daughtrey in view of Kwoh teaches the method of claim 14 as described above. Daughtrey further teaches wherein said defined date range is a calendar month (see para. 33 lines 12-18 and para. 34 lines 3-5).

20. As per Claim 19, Daughtrey in view of Kwoh teaches the method of claim 13 as described above. Daughtrey further teaches wherein the step of identifying one or more departure dates and one or more return dates includes receiving a date range for a trip and receiving a specified trip length (see para. 25 lines 2-5; para. 31 lines 5-15 and Fig. 2), wherein the one or more departure dates are identified as every departure date within said date range which can accommodate a trip of the specified trip length within said date range (see para. 25 lines 2-5 and para. 31 lines 5-12).

21. As per Claim 20, Daughtrey in view of Kwoh teaches the method of claim 13 as described above. Daughtrey further teaches receiving a date range and receiving a

specified trip length (see para. 25 lines 2-5; para. 31 lines 5-15 and Fig. 2), wherein the one or more return dates are identified as every return date within said date range which can accommodate a trip of the specified trip length within said date range (see para. 25 lines 2-5 and Figs. 4 & 5).

22. As per Claim 30, Daughtrey teaches receiving travel date information from the user (see para. 22 and para. 24); the travel date information comprising a trip date range (see Fig. 2, Examiner is interpreting October 10-Oct 17 as a range), the trip date range comprising a user specified earliest departure date and a user specified latest return date (see para. 31 and Fig. 2), and a trip length (see Fig. 2); determining all pairs of departure dates and return dates that satisfy the travel date information (see para. 25 and para. 35); and identifying and displaying fares for itineraries corresponding to each of the departure date and return date pairs (see para. 35 and 37).

23. As per Claim 32, Daughtrey teaches the method of claim 30 as described above. Daughtrey further teaches wherein said trip length is expressed as a numerical value or a numerical range setting forth the desired length of the trip in days (see Fig. 2)

24. As per Claim 33, Daughtrey teaches the method of claim 30 as described above. Daughtrey further teaches determining all possible departure dates and all possible return dates within the trip date range that encompass a trip of the received trip length;

25. Claims 7-8 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daughtrey et al. US Pre-Grant Publication No. 2004/0078252 A1 in view of Kwoh et al U.S. Pre-Grant Publication No. 2001/0034625 A1 in further view of Keller et al. U.S. Patent No. 6,304,850 B1.

26. As per Claim 7, Daughtrey teaches the method of claim 1 as described above. Daughtrey further teaches, receiving a desired departure date, a desired return date (see para. 25 lines 2-5 and Fig. 2); Daughtrey does not explicitly teach and at least one of a specified number of days preceding said desired departure date, a specified number of days following said departure date; a specified number of days preceding said desired return date, and a specified number of days following said desired return date. Keller teaches, at step 105, the user may indicate whether her travel plans are flexible, such that the user may depart or return from one to three days before or after the entered travel dates. If the user's plans are flexible, the user will indicate whether the flexibility is respect to the date of departure or date of return, and will indicate the number of days either before or after the inputted date of travel. (see Col. 3 lines 21-30). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Daughtrey to include receiving at least one of a specified number of days preceding said desired departure date, a specified number of days following said departure date; a specified number of days preceding said desired return date, and a specified number of days following said desired return date in order to allow a user to enter the level of flexibility in their plans, as taught in Keller Col. 3 lines 1-3.

27. As per Claim 8, Daughtrey teaches the method of claim 1 as described above. Daughtrey further teaches wherein the step of determining all pairs of departure and return dates satisfying said flexible travel requirements comprises identifying all possible departure dates based on the desired departure date and the specified number of

acceptable days preceding the desired departure date and the number of acceptable travel days following said desired departure date; identifying all possible return dates based on the desired return date and the specified number of acceptable travel days preceding the desired return date and the number of acceptable travel days following the desired return date; and pairing each possible departure date with each possible return date. Keller teaches, at step 105, the user may indicate whether her travel plans are flexible, such that the user may depart or return from one to three days before or after the entered travel dates. If the user's plans are flexible, the user will indicate whether the flexibility is respect to the date of departure or date of return, and will indicate the number of days either before or after the inputted date of travel. If the user is not flexible, the user will enter "not flexible" in the appropriate line on the web page. and at step 107, the user requests the booking server to initiate a search for a flight meeting the entered information, which is at or below the user's indicated target price (see Col. 3 lines 21-30 and 32-35). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Daughtrey to include the method of Keller in order to allow a user to book a flight based on their specified preferences, as taught in Keller Col. 3 lines 39-42 and 48-53).

28. As per Claim 17, Daughtrey teaches the method of claim 13 as described above. Daughtrey does not explicitly teach wherein the step of identifying one or more departure dates and one or more return dates includes receiving a specified departure date and a range of days preceding and/or following said specified departure date. Keller teaches, at step 105, the user may indicate whether her travel plans are flexible,

such that the user may depart or return from one to three days before or after the entered travel dates. If the user's plans are flexible, the user will indicate whether the flexibility is respect to the date of departure or date of return, and will indicate the number of days either before or after the inputted date of travel. If the user is not flexible, the user will enter "not flexible" in the appropriate line on the web page (see Col. 3 lines 21-30). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Daughtrey to include wherein the step of identifying one or more departure dates and one or more return dates includes receiving a specified departure date and a range of days preceding and/or following said specified departure date in order to allow a user to enter the level of flexibility in their plans, as taught in Keller Col. 3 lines 1-3).

29. As per Claim 18, Daughtrey teaches the method of claim 13 as described above. Daughtrey does not explicitly teach wherein the step of identifying one or more departure dates and one or more return dates includes receiving a specified return date and a range of days preceding and/or following said specified return date. Keller teaches, at step 105, the user may indicate whether her travel plans are flexible, such that the user may depart or return from one to three days before or after the entered travel dates. If the user's plans are flexible, the user will indicate whether the flexibility is respect to the date of departure or date of return, and will indicate the number of days either before or after the inputted date of travel. If the user is not flexible, the user will enter "not flexible" in the appropriate line on the web page (see Col. 3 lines 21-30). It would have been prima facie obvious to one of ordinary skill in the art at the time of

invention to modify the method of Daughtrey to include wherein the step of identifying one or more departure dates and one or more return dates includes receiving a specified departure date and a range of days preceding and/or following said specified departure date in order to allow a user to enter the level of flexibility in their plans, as taught in Keller Col. 3 lines 1-3).

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TONYA JOSEPH** whose telephone number is (571)270-1361. The examiner can normally be reached on Mon-Fri 7:30am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tonya Joseph
Examiner
Art Unit 3628

/John W Hayes/
Supervisory Patent Examiner, Art Unit 3628